

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF)
OHIO FERRO-ALLOYS CORPORATION,)
Appellant,)
vs.)
PUGET SOUND AIR POLLUTION)
CONTROL AGENCY,)
Respondent.)

PCHB No. 154

FINDINGS OF FACT,
CONCLUSIONS AND ORDER

This is an appeal of a \$250.00 civil penalty assessed for an alleged violation of the variance from Sections 9.03 and 9.04 of Regulation I, pursuant to Resolution 139 of the Board of Directors of the Puget Sound Air Pollution Control Agency.

The matter came before the Pollution Control Hearings Board at 11:00 a.m., September 15, 1972 at 818 South Yakima Avenue, Tacoma, Washington. James T. Sheehy acted as the hearings officer in behalf of the Board. Appellant was represented by S. R. Yadeskie, Manager of the Ohio Ferro-Alloys Corporation plant at 3002 Taylor Way in Tacoma,

1 Washington. Respondent was represented by its attorney, Keith D.
2 McGoffin. Transcript of the proceedings was prepared by Richard
3 Reinertsen, court reporter.

4 The hearing began as an informal conference, but when no mutually
5 acceptable compromise was found, it assumed the status of a formal
6 hearing. Witnesses were sworn and testified. Four exhibits were
7 admitted.

8 On the basis of testimony heard and exhibits examined, the Pollution
9 Control Hearings Board prepared Proposed Findings of Fact, Conclusions
10 and Order which were submitted to the appellant and respondent on
11 November 13, 1972. No objections or exceptions to the Proposed Findings,
12 Conclusions and Order having been received, the Pollution Control
13 Hearings Board makes and enters the following

14 FINDINGS OF FACT

15 I.

16 Appellant operates a manufacturing plant at 3002 Taylor Way in
17 Tacoma, Washington, for the purpose of producing Ferro-Silicon alloys
18 that are used in the steel industry and the aluminum industry. The
19 plant was located in the Northwest during the early period of World War
20 II anticipating that the steel industry would grow in the West. Later
21 it was expected that the aluminum industry would be growing in the West,
22 but it turned out that the product produced for use by the aluminum
23 industry is used principally in the East. The plant is unfavorably
24 located with respect to both raw material supply and the markets for
25 the product.

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27 FINDINGS OF FACT,
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1 II.

2 S. R. Yadeskie is manager of the Ohio Ferro-Alloys Corporation
3 plant in Tacoma, Washington and responsible for its operation.

4 III.

5 On June 20, 1972, an air pollution inspector of respondent observed
6 an emission from the bag house of appellant's plant lasting 15 minutes.
7 The emission was judged to be of intensity $2\frac{1}{2}$ on the Ringelmann scale
8 of measurement for smoke.

9 IV.

10 Emissions from the bag house at the Ohio Ferro-Alloys Corporation
11 plant in Tacoma had been observed for approximately one week prior to
12 the date of the violation being appealed. They started with a
13 Ringelmann 1 measurement and progressed to Ringelmann 2 on the second
14 or third day and finally to Ringelmann $2\frac{1}{2}$ on the day the Notice of
15 Violation was registered.

16 V.

17 Appellant admits the violation as described by the air pollution
18 inspector, but pleads for removal of the penalty because of the
19 difficulties associated with monitoring the effectiveness of the bag
20 plant operation.

21 VI.

22 Appellant did not notify the Tacoma office of the Puget Sound Air
23 Pollution Control Agency of failure of some of the 10,000 bags in the
24 bag plant as called for under Section 1, Paragraph No. 2 of the Variance
25 from Sections 9.03 and 9.04 of Regulation I granted Ohio Ferro-Alloys
26 Corporation by Resolution No. 139 of the Puget Sound Air Pollution

27 FINDINGS OF FACT,
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1 Control Agency dated February 10, 1971.

2 From these Findings, the Pollution Control Hearings Board comes to
3 these

4 CONCLUSIONS

5 I.

6 The appellant was in violation of Sections 9.03 and 9.04 of
7 Regulation I of respondent.

8 II.

9 The appellant was in violation of Section 1, Paragraph No. 2 of the
10 Variance from Sections 9.03 and 9.04 of Regulation I granted appellant
11 by Resolution No. 139 of the Puget Sound Air Pollution Control Agency
12 dated February 10, 1971.

13 III.

14 The appellant was not willful in allowing such violation to
15 continue, but was confronted with a major problem in finding the source
16 of trouble in any one or more of 10,000 bags in the bag plant.

17 Based on these Findings and Conclusions the Pollution Control
18 Hearings Board makes the following

19 ORDER

20 The civil penalty of \$250.00 seems inordinately high for the
21 violation admitted and is hereby remanded back to the Puget Sound Air
22 Pollution Control Agency for reduction to an assessment not exceeding half
23 of that amount.

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27 FINDINGS OF FACT,
CONCLUSIONS AND ORDER

1 DONE at Olympia, Washington this 17 day of January, 1973.

2 POLLUTION CONTROL HEARINGS BOARD

3 *Walt Woodward*
4 WALT WOODWARD, Chairman

5 *James T. Sheehy*
6 JAMES T. SHEEHY, Member

7 *Matthew W. Hill*
8 MATTHEW W. HILL, Member

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27 FINDINGS OF FACT,
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